

ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

ILLINOIS
COMMERCE COMMISSION

2003 DEC 22 P 2:04

CHIEF CLERK'S OFFICE

Illinois Telecommunications Access)
Corporation)
)
Petition for approval of CapTel)
Telephone Purchase Agreement)
pursuant to 83 Ill. Adm. Code 755.135(b);)
approval of a waiver of certain provisions)
of 83 Ill. Adm. Code Part 756 pursuant to)
83 Ill. Adm. Code 756.30; and special)
permission to file related tariff)
amendments on less than 45 day's notice.)

No. 03- 0777

PETITION

To the Commission:

The Illinois Telecommunications Access Corporation ("ITAC") hereby requests, pursuant to 83 Ill. Adm. Code 755.135(b), that the Commission approve the CapTel Telephone Purchase Agreement ("Agreement"), attached hereto as Appendix A, between ITAC and Weitbrecht Communications, Inc ("WCI"). ITAC further requests, pursuant to 83 Ill. Adm. Code 756.30, that the Commission grant a waiver of certain provisions of Part 756, analogous to a waiver granted by the Federal Communications Commission ("FCC"), in order to permit the Illinois carriers, through ITAC, to offer CapTel relay service to eligible Illinois telephone subscribers. In addition, ITAC requests special permission to file amended tariff sheets, to become effective on February 1, 2003 on less than 45 days notice, to reflect the distribution of CapTel telephones and generally update the equipment specifications for ITAC equipment loan

program. The proposed amended tariff sheets are attached hereto as Appendix B. In support of this petition, ITAC respectfully states as follows:

(1) ITAC is a not-for-profit corporation formed by all Illinois local exchange telecommunications carriers ("carriers"), pursuant to the authorization and direction of the Commission, to implement the programs mandated under Section 13-703 of the Public Utilities Act, 220 ILCS 5/13-703, and Parts 755 and 756 of the Commission's rules. All Illinois wireline carriers are members of ITAC. Among other programs, ITAC is required to provide telecommunications devices to eligible recipients with permanent hearing and/or speech disabilities, and to provide a telecommunications relay service ("TRS") which permits individuals with a speech and/or hearing disability using a TTY or other telecommunications device to communicate over the standard telecommunications network with a hearing or speaking individual. ITAC provides TRS in Illinois under a contract ("TRS Agreement") with Sprint Communications Company, L.P. ("Sprint") that was approved by the Commission on January 4, 2000 in Docket Nos. 99-0442 and 99-0443.

(2) CapTel technology, developed by Ultratec, allows hard-of-hearing and deaf telephone users with good speech skills, who prefer to speak rather than type their end of a telephone conversation, to communicate over the telephone network in a manner that is functionally equivalent to standard telephone processing. CapTel technology requires that the hard-of-hearing or deaf user have a special CapTel telephone manufactured by Ultratec and distributed exclusively by WCI. This telephone looks similar to a traditional telephone, but also has a text display that allows the user, on one standard telephone line, to both listen to the other

party speak (to the extent that the user has residual hearing) and simultaneously read captions of what the other party is saying.

(3) To utilize the CapTel technology, the CapTel user directly dials the telephone number he or she wishes to call. The user is automatically connected to a captioned telephone Communications Assistant ("CA") at the TRS facility. The specialized TRS facility equipment, in turn, automatically connects the CapTel user's line to a second outgoing line from the TRS facility to the called party. When the CapTel user is connected to the called party, the CapTel user speaks directly to the called party. When the called party replies, his or her voice (which can be amplified) is transmitted directly to the CapTel user. The CA simultaneously repeats or revoices what the called party says, and voice recognition technology automatically transcribes it into text, which is displayed in on the CapTel telephone's display panel. The use of state-of-the-art voice recognition technology allows the captions to appear on the CapTel telephone nearly simultaneously with the called party's spoken words. Calls may also be placed to CapTel users through a toll-free number; the caller is prompted by a recorded message to enter the desired telephone number, and the call is automatically processed. The role of the CA is completely transparent throughout a CapTel call. In fact, the CA never even hears the CapTel's user's portion of the call, resulting in greater privacy on the call. The result is a seamless blending of voice and text with no interaction with an operator or CA for either party.

(4) CapTel technology is an enhanced form of Voice Carry Over ("VCO") relay service. VCO is a type of TRS where a person with a hearing disability, who is able to speak, can speak directly to the other party. A CA then types the response back to the VCO user, which the VCO user reads as text. Traditional VCO calls utilize one standard telephone line that

transmits either text or voice, but not both at the same time. Nor does traditional VCO allow the individual with the hearing disability to make use of his or her residual hearing to hear any portion of the VCO call or the environmental background sounds. CapTel service is a significant step forward in VCO technology, by allowing the user to simultaneously hear (with whatever residual hearing he or she has) and read what the other party is saying. In the context of traditional VCO, the only way to achieve a similar functionality (hearing and reading simultaneously) requires two telephone lines, three-way calling, and the cognitive ability to set up the call quickly before it is disconnected. CapTel relay service is available through Sprint, which subcontracts with Captioned Telephone, Inc. ("CTI") to provide the service.

(5) Approximately 210 Illinois deaf and hard-of-hearing telephone subscribers have participated in a trial of CapTel technology since January, 2003, pursuant to the Third Amendment to the TRS Agreement, which was filed with the Chief Clerk of the Commission for information purposes on or about October 4, 2002. During the trial period, CapTel service has not been fully compliant with all FCC requirements for TRS.

(6) The response to the CapTel trial from the Illinois trial participants was overwhelmingly positive. The captioned telephone VCO service created by CapTel is less intrusive and more natural than traditional VCO and provides greater functional equivalence in access to the telephone network for people who prefer VCO TRS. This service is particularly helpful for many late-deafened adults and elderly hard-of-hearing persons who communicate more comfortably by speaking than by typing on the keyboard of a TTY. For these reasons, ITAC believes that CapTel service will reach a segment of the deaf and hard-of-hearing population that has traditionally not been well served by current TRS options.

(7) The CapTel trial was originally scheduled to end on September 30, 2003, and ITAC and Sprint had contemplated that FCC-compliant CapTel service would be available beginning in October, 2003. However, by late September, 2003, it was clear that full compliance with all FCC requirements would take Sprint and its subcontractors several more months. Consequently, in the Fifth Amendment to the TRS Agreement, filed with the Chief Clerk on or about October 2, 2003, ITAC and Sprint extended the CapTel trial until such date as CapTel service became compliant with all applicable TRS requirements imposed by the FCC.

(8) In April, 2002, Ultratec filed a Petition for Clarification with the FCC. In an order released on August 1, 2003 in CC Docket No. 98-67, the FCC clarified that the CapTel technology, which it generically defined as "captioned telephone VCO service", is a type of TRS. In addition, the FCC clarified that certain TRS mandatory minimum standards do not apply to captioned telephone VCO service, and waived other mandatory minimum TRS standards for captioned telephone VCO service. Specifically, the FCC order:

(a) grants captioned telephone VCO service providers a waiver of the FCC mandatory minimum standards relating to Speech-to-Speech and Hearing Carry Over functionalities, on the ground that a provider of one functionality (such as the CapTel service) need not also provide all other forms and types of TRS;

(b) grants a waiver of the requirement of 7-1-1 access for outbound captioned telephone service calls (i.e., calls by a CapTel user), because such calls are automatically connected to the captioned telephone VCO service provider and to require 7-1-1 access would diminish the functional equivalency of the service;

(c) grants a one-year waiver of the requirement of 7-1-1 access for inbound calls (i.e., calls to a CapTel user) on the ground that 7-1-1 access for inbound calls would add substantial delays and cost to making an inbound captioned telephone call, and is at odds with one of the central features of captioned telephone service, which is that the CA is completely transparent throughout the call;

(d) clarifies that voice recognition technology, as utilized by the CapTel service, is a permissible means for achieving the competency skill levels for CAs in typing, grammar, and spelling;

(e) grants a waiver of the TRS mandatory minimum standard requiring CAs to be competent in interpretation of typewritten American Sign Language ("ASL"), as applied to captioned telephone CAs, because neither party to a captioned telephone call would ever use typewritten ASL;

(f) grants a waiver of the FCC requirement that TRS providers give oral-to-type tests of CA speed and permits the use of an oral-to-text test instead for captioned telephone VCO CAs, on the ground that captioned telephone CAs' transmission output and performance level is dependent on their skill in the use of voice recognition technology rather than their skill in keyboard-based typing;

(g) grants a waiver of the TRS mandatory minimum requirement not to refuse single or sequential calls as applied to captioned telephone CAs handling outbound captioned telephone VCO calls (i.e., calls from a CapTel user), on the ground that the CA is not involved with the call set-up and has no way to refuse the call;

(h) grants a waiver of the TRS requirement that the TRS user's gender preference in CAs be accommodated, on the grounds that the CA is transparent at all times to both parties on the call, and that if the TRS user nevertheless has a gender preference, he or she has the alternative of using traditional VCO relay;

(i) grants a waiver of the requirement that TRS providers be able to release the CA from a call (such as when a TTY caller uses a CA to communicate with a hotel switchboard to be connected to another TTY user), on the ground that captioned telephone VCO service requires the CA to remain on the line at all times; and

(j) grants a waiver of the TRS mandatory minimum requirement that TRS be capable of communicating with both ASCII and Baudot format, on the ground that captioned VCO service uses a different protocol (the V.32 standard) and the ASCII and Baudot protocols do not support captioned telephone VCO's need for the simultaneous transmission of both voice and data.

(9) ITAC and Sprint have entered into a Sixth Amendment to the TRS Agreement, which was filed with the Chief Clerk of the Commission for informational purposes on or about December 8, 2003. Under the Sixth Amendment, Sprint has committed to provide FCC-compliant CapTel service to all qualified Illinois users for the period from February 1, 2004 through January 31, 2005.

(10) During the CapTel trial program, CapTel telephones were provided free of charge by Ultratec to the approximately 210 Illinois participants. With the termination of the CapTel trial and the inception of FCC-compliant CapTel relay service as a standard feature of the Illinois relay platform, these courtesy telephones will be returned to Ultratec. In their place, ITAC

intends to purchase and distribute the most current model of the CapTel telephone through its loan program pursuant to 83 Ill. Adm. Code 755.100.

(11) Pursuant to amendments to 83 Ill. Adm. Code Part 755, which were approved by the Commission in Docket No. 03-0357 and will become effective on January 1, 2004, ITAC may select equipment for its equipment distribution program based on its evaluation of 11 factors enumerated in Section 755.120. ITAC has reviewed the CapTel telephone and concluded that it meets the criteria for inclusion in its equipment distribution program. Consistent with Section 755.120(a), the CapTel telephone allows persons who are deaf or heard-of-hearing and have speech abilities access to the telecommunications network in a way that is more natural and less intrusive than any other equipment on the market. As required by Section 755.120(b), the CapTel telephone will serve a portion of the deaf and hard-of hearing community, which falls within the scope of the Illinois Telecommunications Access Program pursuant to 220 ILCS 5/13-703. Consistent with 83 Ill. Adm. Code 755.120(c) and (d), ITAC has evaluated the financial impact of the CapTel telephone, its cost-effectiveness, and whether it meets an identified need. ITAC has concluded that the CapTel telephone is more appropriate for the equipment loan program than for a voucher program, that it is a cost-effective addition to the loan program, and that meets an identified need and will help ITAC better serve an important and previously underserved segment of the deaf and hard-of-hearing community. Consistent with Sections 755.120 (e), (h), and (i), ITAC has determined that the CapTel telephone is available from WCI, that it has a standard one-year warranty and that WCI has committed to repair the equipment beyond the standard warranty period. With the assistance of its Advisory Council and the participants in the CapTel trial, ITAC has evaluated the durability, reliability,

and quality of the CapTel telephone, the cost, ease and feasibility of training in the use of the telephone, and the ease of use of the equipment by persons for whom it is designed, as required by Sections 755.120 (f), (g), and (j). The results of the CapTel trial were overwhelmingly positive, and demonstrated that users could learn to use the CapTel telephone easily, and that the telephones are durable, reliable, and of high quality. Moreover, the software that is built into the CapTel telephone is continuously upgraded by Ultratec, and the upgrades are automatically downloaded into the telephones that have been distributed to customers. Finally, consistent with Section 755.120(k), the CapTel telephone is consistent with other telecommunications equipment and with the CapTel relay service that Sprint will provide pursuant to the Sixth Amendment to the TRS Agreement.

(12) As required by 83 Ill. Adm. Code 755.130(a), ITAC solicited bids for the provision of CapTel telephones. CapTel telephones are distributed exclusively by WCI, but WCI has an arrangement with Sprint whereby Sprint may distribute the CapTel telephones to relay programs in states that have contracted with Sprint for CapTel relay service. Consequently, letters requesting bids were sent to WCI and Sprint, the only two sources of CapTel telephones. Bids were received from both WCI and Sprint.

(13) ITAC evaluated the bids for the provision of CapTel telephones as required by 83 Ill. Adm. Code 755.130(b) and concluded that both vendors had corporate and fiscal integrity, history, and the ability to deliver the equipment, and both vendors would charge the same price. However, in order to streamline the process and deal directly with the distributor of CapTel telephones, particularly in the area of warranty and post-warranty repair work, ITAC selected WCI as the vendor.

(14) WCI is a certified Woman Business Enterprise offering one of the largest sales and distribution offices in the United States for assistive devices serving the needs of the deaf and hard-of-hearing communities. WCI was incorporated in 1982, and is a privately-owned S-corporation. It serves customers through catalog, internet, phone and on-site sales. WCI provides assistive devices and customer service at retail and wholesale to customers throughout the United States, Canada and Australia. In addition, WCI provides equipment and customer service for the state telecommunication equipment distribution programs in Arizona, Alabama, California, Massachusetts, Missouri, Montana, Nevada, New York, Oregon, Utah, and Washington. It is also an approved vendor for the state voucher distribution programs in Arizona, Iowa, Kansas, Texas and Wisconsin. WCI has been the distribution center for the Verizon New York Lifeline program since the beginning of 1997, for the Verizon New York equipment program since 1998, and for the Verizon Massachusetts equipment program since its inception. Since 1998, WCI has been the deployment center for the Bell South equipment distribution program, serving 11 different states. For the past five years, WCI has had sales in excess of 6 million dollars annually.

(15) ITAC and WCI have entered into the CapTel Telephone Purchase Agreement ("Purchase Agreement"), attached hereto as Appendix A. Under the Purchase Agreement, WCI agrees to supply ITAC with 310 CapTel telephones no later than January 31, 2004. Approximately 210 of these telephones will be drop-shipped to participants in the CapTel trial, as replacements for the telephones loaned by Ultratec during the trial. The remaining approximately 100 telephones in the initial shipment will be available to new CapTel users through ITAC's equipment loan program. The Purchase Agreement further provides that ITAC

may order, and WCI will supply, up to 50 additional CapTel telephones per month for the 12-month term of the Purchase Agreement. These additional telephones will be ordered by ITAC consistent with demand for CapTel service. The cost of a CapTel telephone, including shipping and handling, under the Purchase Agreement is \$355.00 for telephones drop-shipped to trial participants and \$352.00 for telephones delivered to ITAC. Each telephone comes with a standard warranty of one year, during which time WCI will repair or replace all broken or defective telephones without charge. After the expiration of the one-year warranty, WCI will provide repair service for all the technical electronic components of the CapTel telephone, and will supply ITAC with minor replacement parts. ITAC seeks approval of this Purchase Agreement pursuant to 83 Ill. Adm. Code 755.135(b).

(16) Amendments to Section 755.135(a) that were approved by the Commission in Docket No. 03-0357 require that ITAC file a tariff describing the telecommunications equipment offered under its equipment loan program. Attached as Appendix B to this Petition are amendments to ITAC's tariff, I.C.C. No. 3. These amendments add the CapTel telephone to the list of equipment offered in the loan program, and update specifications of the other equipment available through the loan program. ITAC seeks special permission to file amended tariff sheets, in the form attached hereto as Appendix B, on less than 45 days' notice, to become effective February 1, 2004.

(17) The Commission's TRS rules mirror those of the FCC. Therefore, pursuant to 83 Ill. Adm. Code 756.30, ITAC seeks clarifications and waivers from this Commission analogous to those issued by the FCC in CC Docket No. 98-67. Specifically, ITAC requests that the Commission:

- (a) clarify that captioned telephone VCO service is a TRS service;
- (b) grant captioned telephone VCO service providers a waiver of the requirements of 83 Ill. Adm. Code 756.100(a)(3) and (6), which establish mandatory minimum standards relating to Speech-to-Speech and Hearing Carry Over functionalities, on the ground that a provider of one functionality (such as CapTel service) need not provide all other forms of TRS;
- (c) grant captioned telephone VCO service providers a waiver of the requirements of 83 Ill. Adm. Code 756.100(a)(7) and 756.205(d) with respect to 7-1-1 access for outbound captioned telephone VCO service calls (i.e., calls by a CapTel telephone user) because such calls are automatically connected to the captioned telephone VCO service provider and to require 7-1-1 access would diminish the functional equivalency of the service;
- (d) grant captioned telephone VCO service providers a waiver of the requirements of 83 Ill. Adm. Code 756.100(a)(7) with respect to 7-1-1 access for inbound captioned telephone VCO service calls (i.e., calls to a CapTel telephone user);
- (e) clarify that voice recognition technology, as utilized by the CapTel service, is a permissible means for achieving the competency skills levels for CAs in typing, grammar, and spelling established in 83 Ill. Adm. Code 756.210(a);
- (f) grant a waiver of the TRS mandatory minimum standard of 83 Ill. Adm. Code 756.210(a) requiring CAs to be competent in interpretation of typewritten ASL, as applied to captioned telephone CAs, because neither party to a captioned telephone call would ever use typewritten ASL;

(g) grant a waiver of the TRS mandatory minimum standard of 83 Ill. Adm. Code 756.210(a) that TRS providers give oral-to-type tests of CA speed, and permit instead the use of oral-to-text tests for captioned telephone VCO CAs, on the ground that captioned telephone CAs' transmission output and performance level is dependent on their skill in the use of voice recognition technology rather than their skill in keyboard-based typing;

(h) grant a waiver of the TRS mandatory minimum requirement of 83 Ill. Adm. Code 756.205(j) not to refuse single or sequential calls, as applied to captioned telephone CAs handling outbound captioned telephone VCO calls (i.e., calls from a CapTel user), on the ground that the CA is not involved with the call set-up and has no way to refuse the call;

(i) grant a waiver of the TRS requirement of 83 Ill. Adm. Code 756.210(i) that the TRS user's gender preference in CAs be accommodated, on the grounds that the CA is transparent at all times to both parties to the call, and that if the TRS user nevertheless has a gender preference, he or she has the alternative of using traditional VCO relay;

(j) grant a waiver of the requirement of 83 Ill. Adm. Code 756.100(c) that TRS providers provide call release functionality, on the ground that captioned telephone VCO service requires the CA to remain on the line at all times;

(k) grant a waiver of the TRS mandatory minimum requirement of 83 Ill. Adm. Code 756.100(a)(2) that TRS be capable of communicating with ASCII and Baudot formats, on the ground that captioned telephone VCO service utilizes a different protocol (V.32 standard) and ASCII and Baudot protocols will not support captioned telephone VCO service's need for the simultaneous transmission of voice and data.

(18) The clarifications and most of the waivers granted by the FCC are not conditioned or limited to a specified time period. However, the FCC granted only a one-year waiver of the 7-1-1 access requirement with respect to *inbound* calls (calls to a CapTel user). In addition, it conditioned its waivers of the minimum mandatory standards relating to competency in interpreting typewritten ASL, use of an oral-to-type test, and refusal of *outbound* single or sequential captioned telephone calls on the filing by captioned telephone VCO providers of annual reports with the FCC for a period of three years. Because ITAC's intent is that this Commission's waivers would mirror those of the FCC both now and in the future, ITAC requests that the Commission not specify a time period for the waivers, but instead require ITAC to file a report with this Commission within 45 days of the release of any subsequent orders of the FCC related to these waivers.

(19) As required by 83 Ill. Adm. Code 756.30, and as explained more fully in paragraph (8) above and in the FCC Order in CC Docket No. 98-67, each of the rules for which a waiver is requested by ITAC herein (and granted by the FCC in CC Docket No. 98-67) is technologically or financially infeasible as applied to captioned telephone VCO service. Moreover, granting of the waivers will, in nearly every case, enable the captioned telephone VCO service provider to offer a service that is more transparent and more functionally equivalent to standard telephone service than if the standard TRS rule applied. Further, as required by Section 756.30, granting of the waiver would not violate any legislative mandate, as the FCC has already waived the analogous federal regulations. Rather, granting the requested waivers will enable ITAC to offer a new, technologically sophisticated service to persons for whom traditional or standard VCO relay is not fully satisfactory, thus promoting the legislative mandate

in 220 ILCS 5/13-703(b) that the carriers, through ITAC, make "available reasonable access to all phases of public telephone service to persons who have a hearing or speech disability."

(20) FCC-compliant CapTel relay service is schedule to begin on February 1, 2004. In light of the desirability of commencing distribution of the CapTel telephones soon as reasonably possible to give users the benefit of the new product and service, and the strong support of the ITAP Advisory Council and the deaf and hard-of-hearing community for captioned telephone VCO service, ITAC respectfully requests that the Commission enter an order in this proceeding without a hearing.

WHEREFORE, ITAC respectfully requests that the Commission enter an order, without a hearing,

- (a) approving the CapTel Telephone Purchase Agreement attached hereto as Appendix A;
- (b) granting special permission for ITAC to file amended sheets to its tariff I.C.C. No. 3, in the form attached hereto as Appendix B, to become effective on February 1, 2004, on less than 45 days' notice;
- (c) clarifying that captioned telephone VCO service is a type of TRS;
- (d) clarifying that voice recognition technology is a permissible means for achieving the competency skill levels for CAs in typing, grammar, and spelling required by 83 Ill. Adm .Code 756.210(a);

- (e) granting ITAC waivers of 83 Ill. Adm. Code 756.100(a)(2), (3), (6), (7); 83 Ill. Adm. Code 756.100(c); 83 Ill. Adm. Code 756.205(d) and (j); and 83 Ill. Adm. Code 756.210(a) and (i) all as specified in paragraph (17) above and as applied to captioned telephone VCO service providers, conditioned on ITAC filing a report with the Commission within 45 days of the release of any subsequent FCC orders related to FCC waivers of analogous federal TRS requirements; and
- (f) granting ITAC such further and additional relief as may be appropriate or necessary.

Respectfully submitted,

ILLINOIS TELECOMMUNICATIONS
ACCESS CORPORATION

By: 
Trudy Snell
Executive Director

Stephen J. Mattson
Angela O'Brien
Mayer, Brown, Rowe & Maw LLP
190 South LaSalle Street
Chicago, Illinois 60603
(312) 782-0600

Barbara E. Cohen
2710 Deering Drive
Odessa, Texas 79762
(915) 550-2077

December 19, 2003

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

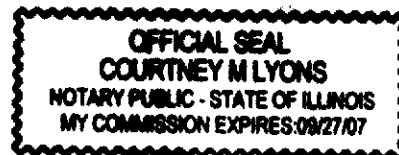
VERIFICATION

Trudy Snell, being first duly sworn, states that she is Executive Director for the Illinois Telecommunications Access Corporation, that she has read the attached and foregoing Petition, and that the facts and matters set forth therein are true to the best of her knowledge and belief.

Trudy Snell

Subscribed and sworn to before me
this 22 day of December, 2003.

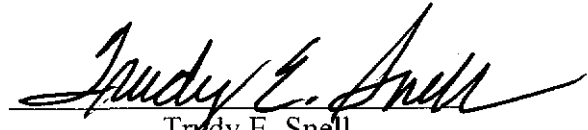
Courtney Lyons
Notary Public



My Commission expires: 9/27/07

CERTIFICATE OF SERVICE

I, Trudy Snell hereby certify that on the ____ day of December, 2003, I caused the foregoing Petition of the Illinois Telecommunications Access Corporation to be served on all persons shown on the Service List below, by hand delivery or by depositing a copy in first class mail, properly addressed and with payment arrangements made.


Trudy E. Snell

Ms. Christy Pound, Staff Liaison
Consumer Services Division
Illinois Commerce Commission
527 East Capitol Ave.
Springfield, IL 62701-1827

Kate Kubey
MOPD
121 N. LaSalle Street, Room 1104
Chicago, IL 60602

Paul Bateman
Littler, Mendelson
200 N. LaSalle St., Suite 2900
Chicago, IL 60601-1014